BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

TRAVIS UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2020061016

ORDER GRANTING REQUEST FOR RECONSIDERATION AND DENYING REQUEST FOR FURTHER CONTINUANCE

SEPTEMBER 18, 2020

On September 10, 2020, the undersigned Administrative Law Judge issued an order granting Travis Unified School District's request for continuance. The continuance granted was not for the length requested. On September 16, 2020, Travis filed a motion for reconsideration, requesting that the hearing dates originally requested be scheduled for hearing. On September 17, 2020, Student filed a notice that he joined in Travis' request for the additional continuance of the hearing to November 3, 2020, noting that he had another hearing scheduled for October 20, 21, and 23, 2020.

APPLICABLE LAW

The Office of Administrative Hearings will generally reconsider a ruling upon a showing of new or different facts, circumstances, or law justifying reconsideration, when the party seeks reconsideration within a reasonable period of time. Analogizing to the standards of the California Code of Civil Procedure, reconsideration motions are expected to be filed, generally, within ten days. (See, e.g., Code Civ. Proc., § 1008.) The party seeking reconsideration is also expected to provide an explanation for its failure to previously provide the different facts, circumstances or law. (See *Baldwin v. Home Savings of America* (1997) 59 Cal.App.4th 1192, 1199-1200.)

MOTION FOR RECONSIDERATION

In its reconsideration motion, Travis offers a declaration describing various other cases for which its counsel is scheduled for hearing. This information was available at the time the original motion was filed. Travis offers no explanation for why it failed to offer the information as part of its original moving papers.

The declaration regarding Travis' attorney's other hearing commitments will be accepted, in this instance, as a basis for granting reconsideration. In future, the parties should not assume that an order will be reconsidered simply because they failed to provide necessary supporting evidence with their original moving papers.

REQUEST FOR FURTHER CONTINUANCE

A due process hearing must be conducted, and a decision rendered, within 45 days of receipt of the due process notice unless an extension is granted. (34 C.F.R. § 300.515(a); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3).) Speedy resolution of the due process hearing is mandated by law and continuance of the hearing may be

granted only upon a showing of good cause. (Ed. Code, § 56505, subd. (f)(3).) In ruling upon a motion for continuance, OAH is guided by the provisions found within the Administrative Procedure Act and the California Rules of Court that concern motions to continue. (Cal. Code Regs., tit. 1, § 1020; Cal. Rules of Court, rule 3.1332.) Generally, continuances of matters are disfavored. (Cal. Rules of Court, rule 3.1332(c).)

Good cause is required to secure a continuance of a special education hearing. Stipulated dates are granted, if possible, when parties are requesting an initial continuance to allow for mediation. Stipulations to dates for continuances of prehearing conferences or hearings generally do not constitute good cause to continue matters. This is a request for an additional continuance and requires good cause for both the continuance and the length requested. Every hearing continuance delays the resolution of a child's educational program. Travis' original request for continuance was the second request for continuance in the case.

The original request for continuance was based on an unexpected advance of the date Travis' Special Education Director was to move into her new home. Her move directly conflicted with the hearing scheduled for September 22 through 24, 2020. The only evidence appended to the motion pertained to that conflict. While Travis and Student stipulated to a hearing in November, no evidence was submitted supporting the longer continuance agreed to by the parties. The September 10, 2020 Order Granting Continuance provided a one-week continuance to accommodate the unanticipated conflict.

Travis has now submitted a list of hearings for which its counsel is currently scheduled and asks for the hearing to be scheduled beginning in November due to the unavailability of counsel. However, the only conflict with the hearing dates ordered in the September 10, 2020 Order Granting Continuance, pertains to a case that was filed

nearly two months after this one. Earlier filed special education cases take precedence for hearing. Student's counsel offered no evidence of a conflict for the dates scheduled in the September 10, 2020 order.

The request for further continuance is denied. Nothing in this order prevents Counsel from seeking a continuance of the later filed case.

ORDER

1. The motion for reconsideration is granted.
2. The request for further continuance is denied. The case will proceed to hearing on the dates stated in the September 10, 2020 Order Granting Continuance.

IT IS SO ORDERED.

DocuSigned by:
Penelope S. Pahl
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Penelope S. Pahl
Administrative Law Judge
Office of Administrative Hearings